

## ***FISH & WILDLIFE COMMISSION AGENDA ITEM COVER SHEET***

**Meeting Date:** August 25, 2015

**Agenda Item:** Upper Clark Fork Phase 1 Annual Rule Extension

**Division:** Fisheries

**Action Needed:** Proposed

**Time Needed on Agenda for this Presentation:** 15 minutes

### **Background**

The Department of Environmental Quality is conducting a phased cleanup project to remove contaminated soils in the streambanks and historic floodplain within the Clark Fork River near Warm Springs. The project is part of the Milltown Reservoir/Clark Fork River Superfund Site, including the Clark Fork River from its headwaters below Warm Springs Ponds to the former Milltown Reservoir. Phase 1, initiated in March 2013, began below Warm Springs Ponds and proceeded downstream for approximately 1.75 river miles. For safety, construction included restrictions on public access. Phase 1 cleanup is now finished, including replacement of soil and planting and seeding on more than 50 acres. Currently, the site's vegetation is thriving, but plants have had at most about two growing seasons so they are still vulnerable to foot traffic from renewed public access.

Phase 2 is currently under construction with equipment using a road within the Warm Springs Wildlife Management Area adjacent to the north boundary of Phase 1 and south boundary of Phase 2 project area. The current closure, which entails the west portion of the WMA and the river through this area has prevented anglers from entering the construction area and encountering heavy equipment. To help Phase 1 vegetation establish, and to provide necessary public safety for Phase 2, DEQ is requesting that FWP now continue the current closure of 1.75 miles of river, the eastern portion of the WMA road, and add the 68-acre portion of the WMA located between the road and the construction zone.

### **Public Involvement Process & Results**

With Commission approval for public comment, FWP would solicit public comment and report back with a final recommendation in October.

### **Alternatives & Analysis**

The Commission could choose not to propose the annual rule. The existing rule would expire on Sept. 15. Public safety would be a concern in the vicinity of the Phase 2 cleanup area within the WMA and the WMA road. Work here might stop completely if health and human safety conditions are deemed unsafe. In addition, new vegetation in areas already completed could be damaged by public foot traffic. The DEQ and NRD program have spent about \$10 million on remediation and restoration of this area and the vegetation and floodplain need time to recover. With the floodplain closed by DEQ and no reasonable way for the public to exit the river otherwise, no alternatives beyond implementing the extended closure are recommended.

### **Agency Recommendation & Rationale**

FWP recommends that the Commission propose the rule for public comment. The rule would address public safety concerns and expedite completion of the federal Superfund project.

### **Proposed Motion**

I move that the Commission propose for public comment an annual rule closing 1.75 river miles of the Clark Fork River, 68 acres of the Warm Springs WMA, and 1/3 mile of the WMA road.